

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

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ROGER M.BANNI

Plaintiff, pro se

v.

PAPA JOHN'S COLONEL'S

LIMITED LLC, et al

ULISSE VISCENCIO

VICTOR PAZ

Defendants

*

*

* CIVIL ACTION # RWT-12-665

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Re: MOTION TO RECONSIDER

By Plaintiff

Roger M.Banni, Pro se

P.O. Box 77003

Washington, DC 20013

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ROGER M.BANNI

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Plaintiff, pro se

*

v.

* **CIVIL ACTION # RWT-12-665**

PAPA JOHN'S COLONEL'S

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LIMITED LLC, et al

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ULISSE VISCENCIO

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Re: MOTION TO RECONSIDER

1. Plaintiff *pro se* hereby files his *Motion to Reconsider*, following the Court order (attached) denying his Motion for Leave to proceed in *Forma Pauperis* and a Motion to appoint counsel (March 1st, 2012) stating: ***"Plaintiff claims that he has no assets, no income, and owes no debt but has monthly expenses of \$2090.00 per month. As a matter of commonsense, a person cannot have no assets, no income, no debt but monthly expenses...Plaintiff's Motions for Leave to Proceed in Forma Pauperis and***

appointment of Counsel are denied", Court order of Jun 1st, 2012. Plaintiff's a layman, going through hardship and who completed the Court forms or statement referred to above.

This is for an action seeking unpaid wages and the jurisdiction of this Court is also invoked to remedy to the harassment, constructive discharge because of his race (Black), national origin and retaliation arising from the charges filed with the **EEOC (Equal Employment Opportunity Commission)** on or about **February 05, 2009** and the Right to Sue issued on or about **December 05, 2011**. The EEOC in his determination dated **September 13, 2011** concluded that violations occurred and that conciliation has failed. (See doc 1-1).

GENERAL SUMMARY OF FACT

Plaintiff, for sixteen years has been intermittently working for Defendants and lastly in Mitchellville, Maryland where he was subjected to harassment, the "N" and "Mother F**Ker" words, unpaid wages and abusive termination on or about **February 1st, 2009**. He was unfairly mistreated, misrepresented with a breach of agreement and fraud/deceit exposing him to continued hardship.

STATEMENT OF RELIEF SOUGHT

2. Plaintiff's an indigent seeking to be granted the Forma Pauperis and the appointment of Counsel.

FACTS RELEVANT TO MOTION

3.1 Plaintiff *pro se*, obtained judgment against Defendants through three years of investigation conducted by the EEOC that determined multiple violations occurred. The Defendant failed to respond to the conciliation and the Commission issued the Right to Sue. A true copy of the determination and a true copy of the right to sue were previously filed. Defendants did not respond to the conciliation offer.

3.2 Plaintiff states that the completed form of *Forma Pauperis* stating that he has no income but expenses at the time of the application is a true statement to the best of his knowledge and that in no means he intended to mislead the Court.

3.3 Indeed, prior to the time of the application or Motion, Plaintiff who has received his refunds for the tax returns, has made a two months deposit and leased a townhouse in Germantown, Maryland where he resides. Plaintiff does not live in DC. The rent is \$1600.00 per month and he paid \$3200.00. All his saving or income was used through the moving and at the time of the application or Motion for *Forma Pauperis*, he has no more money and his bank account was closed, his debit card cancelled. He has no credit card.

3.4 The lease agreement, the receipt for rent payments, true copies are herein attached.

3.5 Plaintiff has moved on February 4, 2012. (Lease attached)

3.6 Plaintiff since April is one month behind with the rent and his landlord has already Signified to him he will initiate an eviction notice continuously harassing him.

3.7 Some phone conversations or text messages with the landlord are attached here.

3.8 At this moment Plaintiff's still behind with his rent.

3.9 Plaintiff's attaching his phone bill (unpaid) \$326.42

3.19 Plaintiff has also gas and power bill exceeding \$500, all these bills he did not have

3.11 Plaintiff prior to March 1st, 2012 has fully paid and cleared his debts with the state of Maryland after three years of increments (see exhibit)

3.12 On April 19, 2012 the State of MD notified Plaintiff of a NEW debt of \$ 4057.79 and arrangements have been made for reimbursements over two years with increments of \$ 130 per month.

3.13 Plaintiff's Pepco (power) unpaid bill of \$551.90 is attached

3.14. Plaintiff has now a new income: he has rented his basement and one room and his new roommates pay respectively \$ 800.00 and \$ 700.00. which is a total income of \$1500.00. (see exh & Exh , sublease agreement.

3.15 Plaintiff also started two home based business: BANNI AND ASSOCIATES generating around \$300 per month and North American Power with a monthly projected income of \$ 1200.00 to begin soon.

AFFIRMATIVELY AND UNDER PENALTY OF PERJURY, plaintiff states that he did not lie to the Court, that at the time of his application he had no income, but thereafter he took in some roommates to help him pay his rent and bills while he's seeking a new job..The Court erred or did not have all the materials.

GROUND FOR RELIEF SOUGHT AND ARGUMENT

Motion to Reconsider

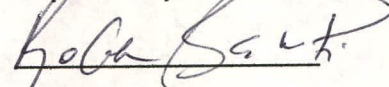
3.16 Any party affected by an order made on application and refused in whole or in part, or granted, or granted conditionally, or on terms, may, within 10 days after service on the party of written notice of entry of the order and based on new or different facts, circumstances, or law, apply to the same judge who made the order to reconsider the matter and modify, amend, or revoke the prior order [Code Civ. Proc. § 1008(a)[Deering's] ; see Form 1]. Code Civ. Proc. § 1008(a)[Deering's] on its face authorizes a motion to reconsider [see, e.g., *Stephen v. Enterprise Rent-A-Car* (1991) 235 Cal. App. 3d 806, 816, 1 Cal. Rptr. 2d 130 ; *Graham v. Hansen* (1982) 128 Cal. App. 3d 965, 970, 180 Cal. Rptr. 604]. Code Civ. Proc. § 1008[Deering's] applies to all applications for interim orders [Code Civ. Proc. § 1008(g)[Deering's]].

3.17. Plaintiff's an indigent going through hardship. Moreover, in a similar case: **Keith Palmer V.Papa John's International, case # 1:11-CV-01626-SEB-TAB** (US District Court, Indianapolis) also investigated by the EEOC.Defendent, charged, failed to conciliate. On or about December 31, 2012, plaintiff filed a *Forma Pauperis* and appointment of counsel which were granted to. The complaint about sixty days later was settled out of Court.

PLAINTIFF IS RESPECTFULLY REQUESTING THAT THE COURT GRANT HIS
MOTION TO RECONSIDER, BASED ON NEW AND DIFFERENTS FACTS, AND
THE NEW FACTS SET FORTH IN THE AFFIDAVITS or DECLARATION UNDER
PENALTY OF PERJURY ATTACHED.

This 06 Day of Jun, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger M. Banni", written over a horizontal line.

Roger M.Banni, pro se

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